

FILED

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

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11 Attorneys for Defendant

12 U.S. Security Associates, Inc.

13 UNITED STATES DISTRICT COURT

14 CENTRAL DISTRICT OF CALIFORNIA

15
16 MUHAMMED ABDULLAH, as an
17 individual and on behalf of all others
similarly situated,

18 Plaintiff,

19 v.

20 U.S. SECURITY ASSOCIATES, INC.,
21 a corporation; and DOES 1 through 50,
inclusive,

22 Defendant.

Case No.

CV09-9554 DSF FMOx

**DEFENDANT U.S. SECURITY
ASSOCIATES, INC.'S NOTICE OF
REMOVAL OF ACTION
PURSUANT TO 28 U.S.C. § § 1332,
1441, AND 1446; DECLARATIONS
OF ROSS A. BOUGHTON AND
JOHN MARSHALL**

1 **TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT**
 2 **COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA AND TO**
 3 **PLAINTIFF AND HIS ATTORNEYS OF RECORD:**

4 **PLEASE TAKE NOTICE** that Defendant U.S. Security Associates
 5 ("U.S. Security Associates" or "Defendant"), by its undersigned attorneys, pursuant
 6 to 28 U.S.C. §§ 1332, 1441 and 1446, hereby removes to the United States District
 7 Court for the Central District of California, the action captioned *Muhammed*
 8 *Abdullah v. U.S. Security Associates, Inc.*, which is currently pending in the
 9 Superior Court of the State of California for the County of Los Angeles, as Case No.
 10 BC405465 (hereinafter the "State Court Action").¹

11 **I. THE PARTIES AND THEIR CITIZENSHIP**

12 1. Defendant U.S. Security Associates is a corporation organized
 13 under the laws of the State of Delaware with its principal place of business located
 14 in Roswell, Georgia. (Declaration of John Marshall ("Marshall Decl.") ¶ 3). Thus,
 15 U.S. Security Associates is a citizen of Georgia and/or Delaware for purposes of
 16 diversity jurisdiction, and is not a citizen of California. *See* 28 U.S.C. § 1332(c).

17 2. During the proposed class period, U.S. Security Associates
 18 earned the majority of its revenue in states outside of California, and no single state
 19 generated an inordinately large proportion of its revenue. In fact, U.S. Security
 20 Associates did business in at least five states during that time. (Marshall Decl. ¶ 4).
 21 Accordingly, under a "substantial predominance" analysis, no single state conducts
 22 the vast majority of U.S. Security Associates' business activities. *See Industrial*
 23 *Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090, 1094 (9th Cir. 1990).

24 3. Under the "nerve center" test, U.S. Security Associates' principal
 25 place of business is Georgia. *See Tosco Corp. v. Communities for a Better*

26 ¹ Filed herewith as Exhibits 1-34 to the Declaration of Ross A. Boughton are copies
 27 of all of the pleadings, processes and orders that have been filed in the State Court
 28 Action.

1 *Environment*, 236 F.3d 495, 500 (9th Cir. 2001). U.S. Security Associates' corporate
 2 headquarters, where the majority of executive and administrative functions are
 3 performed, and corporate offices and executives are located in Georgia. (Marshall
 4 Decl. ¶ 3). Accordingly, U.S. Security Associates' principal place of business is
 5 appropriately Georgia.

6 4. Plaintiff Muhammed Abdullah ("Abdullah") was a California
 7 employee of U.S. Security Associates assigned to perform security services for U.S.
 8 Security Associates' clients in California (Abdullah Depo. 78:7-8, 94:8-13, Exh. 35,
 9 Second Amended Complaint ¶¶ 8, 18, Exh. 7). Plaintiff is a resident of the State of
 10 California. (Abdullah Depo. 78:7-8, 94:8-13, Exh. 35). Residence is prima facie
 11 evidence of domicile. *See State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 520
 12 (10th Cir. 1994). Accordingly, Plaintiff is a citizen of the State of California, and he
 13 is not a citizen of the State of Delaware or the State of Georgia for purposes of
 14 diversity jurisdiction.

15 5. The Second Amended Complaint does not specifically state the
 16 residences of newly added plaintiffs Melissa Robinson, Christina Aguilar, and
 17 William Kimbrough. They were, however, purportedly employed by Defendant in
 18 the state of California. (See Second Amended Complaint ¶¶ 8, 18, Exh. 33).

19 6. The putative plaintiff class members are "all current and former
 20 Security Guard/Officer employees of Defendants who worked at U.S. Security
 21 Associates, Inc. in California during the period from July 1, 2007 to the present."
 22 (Second Amended Complaint ¶ 18, Exh. 33). At this point in the litigation, it is
 23 impossible to determine the distribution of citizenship of the putative class, as the
 24 putative class has not been determined. However, as the class is defined to *only*
 25 include persons who worked for U.S. Security Associates in California, it is clear
 26 that a vast majority of putative class members are citizens of California. Therefore,
 27 U.S. Security Associates asserts and affirmatively alleges that at least one and
 28

probably the vast majority of the members of this putative class are not citizens of the State of Delaware or the State of Georgia, and are instead citizens of California.

II. REMOVAL JURISDICTION UNDER THE CLASS ACTION

FAIRNESS ACT ("CAFA")

7. The CAFA amended the diversity jurisdiction statute, 28 U.S.C. § 1332, by adding provisions that give federal courts original jurisdiction in class actions where the following factors are met:

- a. the aggregate amount in controversy exceeds \$5,000,000;
- b. any member of the plaintiff class is a citizen of a State different from any defendant or any member of the plaintiff class is a citizen or subject of a foreign state and any defendant is a citizen of a State ("minimal diversity");
- c. the primary defendants are not states, state officials, or other government entities against whom the district court may be foreclosed from ordering relief; and
- d. the number of members of the plaintiff class is 100 or more.

28 U.S.C. § 1332(d)(2), (d)(5); *see also Hart v. FedEx Ground Package System, Inc.*, 457 F.3d 675, 679 (7th Cir. 2006).

A. Minimal Diversity

8. In the present case, the minimal diversity requirement of the CAFA has been met. As noted above, U.S. Security Associates is a citizen of Delaware and Georgia and Muhammed Abdullah is a citizen of California and at least one member of plaintiff putative class is a citizen of a state other than Georgia and Delaware. (*Compare* Abdullah Depo. 78:7-8, 94:8-13; Exh. 35 and Second Amended Complaint ¶¶ 8, 18, Exh. 33 *with* Marshall Decl. ¶¶ 3, 4). Accordingly, the minimal diversity requirement of the CAFA is satisfied. See 28 U.S.C. § 1332(d)(2)(A) & (B).

1 9. Also in the present case, the Defendant, U.S. Security
2 Associates, is not a state, state official, or other government entity “against whom
3 the district court may be foreclosed from ordering relief.”

4 **B. Class Size**

5 10. With respect to the CAFA requirement of numerosity, Plaintiff's
6 Complaint asserts that there are at least 200 individuals in the putative class.
7 (Second Amended Complaint ¶19, Exh. 33). The scope of this class, as identified in
8 Plaintiff's Complaint, is all Security Guards/Officers that worked in California from
9 July 1, 2007 to the present. The size of the putative class is in excess of 100.
10 (Marshall Decl. ¶ 5).

11 **C. Amount In Controversy Exceeds \$5,000,000**

12 11. Plaintiff's original Complaint and First Amended Complaint did
13 not set forth any specific amount of damages, but capped damages at \$5,000,000,
14 specifically stating that the damages sought “do not exceed \$5,000,000.”
15 (Complaint ¶6, Exh. 1; First Amended Complaint ¶6, Exh. 7). On December 1,
16 2009, however, Plaintiff sought leave to amend his complaint to add additional
17 plaintiffs, additional causes of action, and, importantly, to remove to \$5,000,000 cap
18 on damages sought. (Boughton Decl. ¶ 7). At the December 1, 2009 hearing,
19 Plaintiff's counsel indicated that the reason they were removing the cap on damages
20 is that Plaintiff's counsel now believes that the amount in controversy exceeds
21 \$5,000,000. On December 8, 2009, the Court granted, in part, Plaintiff's motion for
22 leave to amend and allowed Plaintiff to remove the \$5,000,000 cap on damages.
23 (See December 8, 2009 Minute Order, Exh. 29). On December 18, 2009, Plaintiff
24 filed a Second Amended Complaint that removed the cap on damages. (See Second
25 Amended Complaint, Exh. 33). Accordingly, while Defendant vigorously denies
26 any liability, Defendant acknowledges that Plaintiff has now alleged claims that are
27 in excess of \$5,000,000.
28

1 **D. CAFA Exceptions Are Not Applicable**

2 12. Further, while 28 U.S.C. § 1332(d)(3) and (4) do recognize
 3 situations where this Court may or must decline jurisdiction despite the fact that the
 4 minimal diversity and the amount in controversy requirements of § 1332(d)(2) are
 5 satisfied, this case does not fall into either category because U.S. Security
 6 Associates is not a citizen of California. *See* 28 U.S.C. §§ 1331(d)(3)(discretionary
 7 declination of jurisdiction limited to situations where “the primary defendants are
 8 citizens of the state where the action was originally filed.”) and 1331(d)(4)(A)(local
 9 controversy mandatory declination limited to where “at least one defendant is ... a
 10 citizen of the State in which the class action was filed.” *See also*
 11 1331(d)(4)(B)(home state controversy mandatory declination limited to cases where
 12 “the primary defendants are citizens of the State in which the action was originally
 13 filed.”). Additionally, Plaintiff shoulders the burden of establishing that any of
 14 these exceptions apply. *Hart, supra* 457 F.3d at 682 (“Our holding [is] that the
 15 plaintiff has the burden of persuasion on the question whether the home-state or
 16 local controversy exceptions apply.”)

17 **III. TIMELINESS OF REMOVAL**

18 13. The appropriate time for removal is set forth in 28 U.S.C.
 19 § 1446(b), which provides:

20 "The notice of removal of a civil action or proceeding shall be filed
 21 within thirty days after the receipt by the defendant, through service or
 22 otherwise, of a copy of the initial pleading setting forth the claim for
 23 relief upon which such action or proceeding is based, or within thirty
 24 days after the service of summons upon the defendant if such initial
 25 pleading has then been filed in court and is not required to be served on
 26 the defendant, whichever period is shorter.

27 If the case stated by the initial pleading is not removable, a notice of
 28 removal may be filed within thirty days after receipt by the defendant,
 through service or otherwise, of a copy of an amended pleading,
 motion, order or other paper from which it may first be ascertained that
 the case is one which is or has become removable, except that a case
 may not be removed on the basis of jurisdiction conferred by section
 1332 of this title [28 USCS § 1332] more than 1 year after
 commencement of the action."

14. Pursuant to 28 U.S.C. § 1446(b), there are two time windows in which removal is appropriate, depending on the pleadings in the case. First, if the removability of the case is evident from the initial complaint, a defendant has a thirty-day time limit for removal from the time the defendant is served with the complaint. *See* 28 U.S.C. § 1446(b); *see also* *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1250 (9th Cir. 2006). This initial thirty day window only applies if the case is removable on the face of the pleading. *See Harris v. Bankers Life and Casualty Co.*, 425 F.3d 689, 694 (9th Cir. 2005) ("the first thirty-day period for removal in 28 U.S.C. § 1446(b) only applies if the case stated by the initial pleading is removable on its face.").

15. Second, if the removability of an action is not evident from the face of the initial pleading, the defendant has thirty days to remove "after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b); *see also Harris v. Bankers Life and Cas. Co.*, 425 F.3d 689, 694-95 (9th Cir. 2005) (where "such details are obscured or omitted ... [such omission] makes the case 'stated by the initial pleading' not removable, and the defendant will have 30 days from the revelation of grounds for removal in an amended pleading ... or other paper to file its notice of removal.").

16. In diversity cases where removal is dependent on the amount in controversy exceeding a certain dollar amount, the defendant is not put on notice that the action is removable by the initial complaint unless the complaint states a specific amount of damages in excess of the jurisdictional limit. *See Harris*, 425 F.3d at 695, n.5 (quoting *In re Willis*, 228 F.3d 896, 897 (8th Cir. 2000)) (where a plaintiff fails to explicitly disclose the amount of damages in his or her complaint, the clock does not begin to run upon receipt of the complaint.); *see also Bullard v. Allstate Ins. Co.*, 2006 U.S. Dist. LEXIS 94390 (N.D. Cal 2006) ("courts adopt a

1 bright line rule requiring the plaintiff, if he wishes the thirty-day time period to run
 2 from the defendant's receipt of the initial pleading, to place in the initial pleading a
 3 specific allegation that damages are in excess of the federal jurisdictional amount."
 4 (internal citations omitted)). This is true for cases removed under CAFA as well as
 5 under traditional diversity grounds. *See Babasa v. LensCrafters, Inc.*, 498 F.3d 972,
 6 973 (9th Cir. 2007). In such cases, the thirty day clock for removal begins when the
 7 Defendant is first put on notice that the amount in controversy exceeds the
 8 jurisdictional limit for removal. *Id.*

9 17. In this case, Plaintiff's original Complaint and First Amended
 10 Complaint specifically stated that damages "do not exceed \$5,000,000." (Complaint
 11 ¶6, Exh. 1; First Amended Complaint ¶6, Exh. 7). Accordingly, the Complaint and
 12 First Amended Complaint did not put Defendant on notice that this case was
 13 removable and Defendant's time to remove did not begin to run.

14 18. On December 1, 2009, Plaintiff sought leave to amend his
 15 complaint to, among other thing, remove to \$5,000,000 cap on damages. (Boughton
 16 Decl. ¶ 7). At the December 1, 2009 hearing, Plaintiff's counsel indicated that the
 17 reason they were removing the cap on damages is that Plaintiff's counsel now
 18 believes that the amount in controversy exceeded \$5,000,000. (Boughton Decl. ¶ 7).
 19 On December 8, 2009, the Court granted, in part, Plaintiff's motion for leave to
 20 amend and allowed Plaintiff to remove the \$5,000,000 cap on damages. (*See*
 21 December 8, 2009 Minute Order, Exh. 29). On December 18, 2009, Plaintiff filed a
 22 Second Amended Complaint that had no cap on damages. (*See* Second Amended
 23 Complaint, Exh. 33). At all times prior to December 18, 2009, the operative
 24 complaint included a cap on damages that explicitly stated that the damages sought
 25 did not exceed \$5,000,000. The December 18, 2009 Second Amended Complaint,
 26 which removed the cap on damages, was the first time Defendant received a copy of
 27 a pleading, motion, order or other paper from which it was ascertained that the
 28 amount in controversy exceeded \$5,000,000. (Boughton Decl. ¶ 8). Therefore, this

19. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) and Fed. R. Civ. P. 6(a), in that it is filed within thirty (30) days after Defendant was served with a copy of the Second Amended Complaint on December 18, 2009, which for the first time removed the cap on damages and established that the amount in controversy exceeded the jurisdictional limit for removal. *See Harris v. Bankers Life and Cas. Co.*, 425 F.3d 689, 694-95 (9th Cir. 2005).

9 IV. VENUE

20. Venue is proper in the Central District of California pursuant to 29 U.S.C. § 1391(a)(2), because a substantial part of the events giving rise to the alleged claims occurred in the Central District of California. Venue in the Central District of California is also proper pursuant to 28 U.S.C. § 1441(a) because the county in which the State Court Action was pending is found within this District.

5 V. DEFENSES

21. The removal of this action to the Central District of California does not waive U.S. Security Associates' ability to assert any defense to this action.

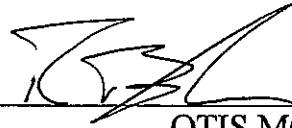
8 22. U.S. Security Associates will file a true and correct copy of this
9 Notice of Removal with the Superior Court for the County of Los Angeles and will
0 serve notice of removal on Plaintiff.

1 **WHEREFORE**, U.S. Security Associates has removed this action to
2 the United States District Court for the Central District of California, in accordance
3 with the statutes in such cases made and provided.

4 Dated: December 30, 2009

5 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

6
7 By



8 OTIS MCGEE, Jr.

9 MORGAN P. FORSEY

10 ROSS A. BOUGHTON

11 Attorneys for Defendant

12 U.S. SECURITY ASSOCIATES, INC.
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DECLARATION OF ROSS A. BOUGHTON

I, Ross A. Boughton, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an associate with SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, attorneys of record for U.S. Security Associates, Inc.

2. If called as a witness, I could and would competently testify to all facts within my personal knowledge except where stated upon information and belief.

3. This declaration is submitted in support of DEFENDANT U.S. SECURITY ASSOCIATES' NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1332, 1441, AND 1446.

4. Attached as Exhibits 1-33 are true and correct copies of all pleadings and orders in filed in Los Angeles County Superior Court in this action prior to removal, as follows:

Exhibit 1 SUMMONS AND CLASS ACTION COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF – Filed 1/13/09

Exhibit 2 NOTICE OF RELATED CASE – Filed 2/20/09

Exhibit 3 ORDER TO SHOW CAUSE HEARING – Filed 2/23/09

Exhibit 4 NOTICE OF CASE MANAGEMENT CONFERENCE TO Hart, Yoon, Lee – Filed 2/23/09

Exhibit 5 PROOF OF SERVICE OF ORDER TO SHOW CAUSE HEARING – Filed 2/26/09

- 1 Exhibit 6 NOTICE OF ORDER TO SHOW CAUSE HEARING
2 AND CASE MANAGEMENT CONFERENCE – Filed
3 02/27/09
- 4 Exhibit 7 FIRST AMENDED CLASS ACTION COMPLAINT FOR
5 DAMAGES AND INJUNCTIVE RELIEF – Filed 3/09/09
- 6 Exhibit 8 STIPULATION AND ORDER REGARDING LEAVE
7 TO FILE A FIRST AMENDED COMPLAINT – Filed
8 3/06/09
- 9 Exhibit 9 MINUTE ORDER RE RELATED CASES – CASES ARE
10 ASSIGNED TO JUDGE JANE JOHNSON FOR ALL
11 PURPOSES – Entered 3/19/09
- 12 Exhibit 10 DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST
13 AMENDED COMPLAINT – Filed 3/24/09
- 14 Exhibit 11 STIPULATED PROTECTIVE ORDER - Filed 4/13/09
- 15 Exhibit 12 NOTICE OF CASE MANAGEMENT CONFERENCE –
16 Filed 4/29/09
- 17 Exhibit 13 NOTICE OF ORDER RE RELATED CASES AND
18 REASSIGNMENT – Filed 3/27/09
- 19 Exhibit 14 CASE MANAGEMENT STATEMENT – Filed 5/29/09
- 20 Exhibit 15 MINUTE ORDER RE CASE MANAGEMENT
21 CONFERENCE – CONTINUED TO 8/21/09 – Entered
22 6/12/09
- 23 Exhibit 16 STIPULATION AND ORDER REGARDING BELAIRE-
24 WEST NOTICE – Filed 7/28/09
- 25 Exhibit 17 MINUTE ORDER RE POST-MEDIATION STATUS
26 CONFERENCE – SET FOR 12/1/09 IN DEPT. 56 –
27 Entered 10/22/09
- 28 Exhibit 18 NOTICE OF LODGING OF FIRST AMENDED
COMPLAINT – Filed 11/03/09
- Exhibit 19 DECLARATION OF LARRY W. LEE IN SUPPORT OF
PLAINTIFF'S MOTION FOR LEAVE TO FILE A FIRST
AMENDED COMPLAINT – Filed 11/03/09
- Exhibit 20 PLAINTIFF'S NOTICE OF MOTION AND MOTION

FOR LEAVE TO FILE A FIRST AMENDED
COMPLAINT – Filed 11/03/09

Exhibit 21 DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR LEAVE TO FILE A FIRST AMENDED
COMPLAINT; DECLARATION OF ROSS A.
BOUGHTON – Filed 11/13/09

Exhibit 22 NOTICE OF RELATED CASE – Filed 11/17/09

Exhibit 23 PROOF OF SERVICE OF PLAINTIFF'S POSITION IN
SUPPORT OF MOVING FORWARD WITH THE
PROCEEDINGS BECAUSE A STAY IS
UNWARRANTED; AND DECLARATION OF LINDA
P. WHITEHEAD IN SUPPORT OF PLAINTIFF'S
POSITION – Filed 11/20/09

Exhibit 24 PLAINTIFF'S POSITION IN SUPPORT OF MOVING
FORWARD WITH THE PROCEEDINGS BECAUSE A
STAY IS UNWARRANTED – Filed 11/20/09

Exhibit 25 DECLARATION OF LINDA P. WHITEHEAD IN
SUPPORT OF PLAINTIFF'S POSITION – Filed 11/20/09

Exhibit 26 DEFENDANT U.S. SECURITY ASSOCIATES, INC.'S
REQUEST FOR JUDICIAL NOTICE – Filed 11/20/09

Exhibit 27 DEFENDANT'S BRIEF IN SUPPORT OF STAY OF
ACTION – Filed 11/20/09

Exhibit 28 MINUTE ORDER RE MOTION FOR LEAVE TO FILE
A FIRST AMENDED COMPLAINT – DENIED
WITHOUT PREJUDICE – Entered 12/01/09

Exhibit 29 MINUTE ORDER RE GUARDS CARDS AND
SECURITY CHECKS – GRANTING MOTION TO
AMEND COMPLAINT – Entered 12/08/09

Exhibit 30 ORDER GRANTING PLAINTIFF'S EX PARTE
APPLICATION – Filed 12/15/09

Exhibit 31 MINUTE ORDER – GRANTING EX PARTE REQUEST
– Entered 12/15/09

Exhibit 32 PLAINTIFF'S EX PARTE APPLICATION FOR ORDER
EXTENDING HEARING DATE AND ALL

CORRESPONDING FILING DEADLINES FOR
PLAINTIFF'S MOTION FOR CLASS CERTIFICATION,
OR IN THE ALTERNATIVE, AN ORDER FOR
HEARING ON SHORTENING NOTICE;
DECLARATION OF MELISSA M. COYLE IN
SUPPORT THEREOF

Exhibit 33 SECOND AMENDED CLASS ACTION COMPLAINT
FOR DAMAGES AND INJUNCTIVE RELIEF -- Filed
12/18/09

Exhibit 34. DEFENDANT'S ANSWER TO PLAINTIFFS' SECOND
AMENDED COMPLAINT

5. Attached as Exhibit 35 are true and correct copies of the relevant
pages of the deposition of Plaintiff Muhammed Abdullah taken on September 1,
2009.

6. Plaintiff's original Complaint and First Amended Complaint did
not set forth any specific amount of damages, but specifically capped damages at
\$5,000,000, stating that the damages sought "do not exceed \$5,000,000." (*See*
Complaint 6, Exh. 1; First Amended Complaint 6, Exh. 7).

7. On December 1, 2009, however, Plaintiff sought leave to amend
his complaint to add additional plaintiffs, additional causes of action, and,
importantly, to remove to \$5,000,000 cap on damages sought. At the December 1,
2009 hearing, Plaintiff's counsel indicated that the reason they were removing the
cap on damages is that Plaintiff's counsel now believes that the amount in
controversy exceeds \$5,000,000.

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)MUHAMMED ABDULLAH, as an individual and on behalf of
all others similarly situated

DEFENDANTS

U.S. SECURITY ASSOCIATES, INC., a corporation; and DOES 1
through 50, inclusive,(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing
yourself, provide same.)Larry W. Lee, Esq. (213) 488-6555
Diversity Law Group
444 South Flower Street
Citigroup Center - Suite 1370
Los Angeles, CA 90071

Attorneys (If Known)

Otis McGee Jr., Esq. Bar # 71885 (415) 434-9100
Morgan Forsey, Bar # 241207
Ross A. Boughton, Bar #241119
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center Center, 17th Floor
San Francisco, CA 94111-4109

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S.
Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship
of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place
of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place
of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No☒ MONEY DEMANDED IN COMPLAINT: \$ None stated

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Plaintiff alleges that he and other class members were denied meal and rest breaks, not paid all wages, and not reimbursed for expenses

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 892 Economic Stabilization Act	REAL PROPERTY	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 240 Torts to Land				FEDERAL TAX SUITS
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

CV09-9554

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s):

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☒ Yes
If yes, list case number(s): Robert Morehead v. U.S. Security Associates, Inc., Case No. CV09-09075 GHK (Ex)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Georgia and Delaware	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Ross Boughton Date December 30, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles; I am over the age of eighteen
4 years and not a party to the within entitled action; my business address is 333 South Hope
Street, 48th Floor, Los Angeles, California 90071-1448.

5 On December 30, 2009, I served the following document(s) described as
6 **CIVIL COVER SHEET** on the interested party(ies) in this action by placing true copies
thereof enclosed in sealed envelopes and/or packages addressed as follows:

7 **See Attached Service List**

8 ☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
9 processing correspondence for mailing. Under that practice it would be deposited
with the U.S. postal service on that same day with postage thereon fully prepaid at
10 Los Angeles, California in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or
11 postage meter date is more than one day after date of deposit for mailing in
affidavit.

12 ☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be
13 delivered on the same day to an authorized courier or driver authorized by the
overnight service carrier to receive documents, in an envelope or package
14 designated by the overnight service carrier.

15 ☐ **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile
pursuant to Rule 2.306 of the California Rules of Court. The telephone number of
16 the sending facsimile machine was 213-620-1398. The name(s) and facsimile
machine telephone number(s) of the person(s) served are set forth in the service list.
17 The sending facsimile machine (or the machine used to forward the facsimile)
issued a transmission report confirming that the transmission was complete and
18 without error. Pursuant to Rule 2.306(g)(4), a copy of that report is attached to this
declaration.

19 ☐ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the
20 office of the addressee(s).

21 ☒ **STATE:** I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

22 ☐ **FEDERAL:** I declare that I am employed in the office of a member of the bar of
23 this Court at whose direction the service was made. I declare under penalty of
perjury under the laws of the United States of America that the foregoing is true and
24 correct.

25 Executed on December 30, 2009, at Los Angeles, California.

26 
27 Bertha (Birdie) Flores
28

SERVICE LIST

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Muhammed Abdullah

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

CV09- 9554 DSF (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs):

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.